



Joan McDonald
Commissioner



State of Connecticut
Department of Economic and
Community Development

February 4, 2010

Commissioner Amey Marrella
Department of Environmental Protection (DEP)
79 Elm Street
Hartford, CT 06106

PLANNING & ECONOMIC DEVELOPMENT DIVISION

FEB 04 2010

Subj: Comments on DEP's Proposed Stream Flow Regulations

Dear Commissioner Marrella:

The Department of Economic and Community Development (DECD) has reviewed DEP's proposed stream flow regulations prepared in accordance with PA 05-142. DECD understands the importance of these regulations to protect the state's rivers and streams for future human and ecological needs. DECD commends DEP for undertaking this task in support of the state's natural resource conservation agenda. We also appreciate the time that Betsy Wingfield took to meet with us and help us understand the regulations. After careful review of these proposed regulations and discussions with our sister agencies and other stakeholder groups, we have the following comments:

- *Implementation Costs.* Neither DEP nor the water utility companies are able to provide exact numbers regarding the fiscal impact for regulatory compliance. One reason for this intangibility is that the stream classification process will occur after the regulations are finalized. Until utility companies know the classification(s) of their water sources, they cannot predict their infrastructure and operational costs for compliance. As with all businesses, these costs would be passed down to consumers.
- *Costs to Businesses.* Many small businesses including the agriculture industry in Connecticut are in tenuous financial situations and would be unable to absorb significant compliance costs. DECD is concerned that these costs could be an additional strain on their operations. We understand that DEP may be adding measures to improve the flexibility of the regulations and potentially extend implementation schedules. While these measures may reduce the immediate fiscal strain to businesses, the costs for the improvements will remain. The increase in utility costs for all businesses could make Connecticut less competitive in terms of attracting and retaining businesses.
- *Distribution of Costs/Compliance.* We have the following comments on distribution of costs for compliance:
 - DEP will be classifying one basin at a time. As per the proposed plans, once classification is completed for a particular basin, the affected parties in that basin can proceed to take necessary actions to comply with the proposed standards. These actions could include identifying an alternative source of water in another basin. Therefore,

basins that are classified before others have more options to satisfy the required standards. Basins that are classified later will have to achieve the standards with the remaining available sources and therefore may incur greater costs.

- Areas with a higher conservation water classification will have to spend significantly more than those with a lower conservation classification (Class 1 more than a Class 2, 3 or 4).
 - Water utility customers will bear the burden of compliance through the rate structure while individual well owners (less than 50,000 gallons per day) will be unaffected.
- *Classification Process.* Although the regulations list the criteria that will be considered, the classification methodology including the weightage for each criteria have not been described.

We propose the following recommendations to help address some of the above discussed issues:

- *Classification and Compliance Requirements.* Strategies for implementing the proposed standards may require inter-basin transfers of water. We suggest that DEP consider potential inter-basin needs when completing the classification of neighboring and dependent basins. The preliminary classification strategy could be tested on a pilot basin before finalizing the approach.

DEP should include the specifics of the classification protocol including the weightage that will be used for each criteria and the timeframe for various milestones. Small businesses may not have the required technical capability and resources to participate in the planning process. DEP should therefore, make efforts to include stakeholders, especially small business representatives not only during the public review process but also during the actual classification process. This process could clarify the actual impacts to businesses and water utility companies and would also help hone the regulations, thus creating a better policy instrument.

- *Cost Estimation and Funding Source.* Excessive utility costs are a common complaint that DECD receives from the business community, and is a significant impediment in attracting and retaining businesses. Implementing these regulations may exacerbate this issue. DEP should refine the fiscal estimate reports to include actual implementation costs to the state and businesses. DECD is often requested to provide financial assistance for water utility improvements when an area's infrastructure deficiency becomes a critical economic development issue. Although beyond the scope of the regulations, we recommend that potential funding sources that could support with capital costs be explored to support water supply infrastructure improvements.
- *Conservation and Other Measures.* DECD agrees with many of the comments regarding water conservation offered to DEP during the public information meetings. General public education regarding water conservation measures should be emphasized in the regulations. Incentives for water utility companies and municipalities to conduct consumer education on water conservation measures and low-impact land development techniques could also support the intent of these regulations. In an effort to reduce the costs of doing business in the state, DECD has been working with businesses to develop energy conservation measures

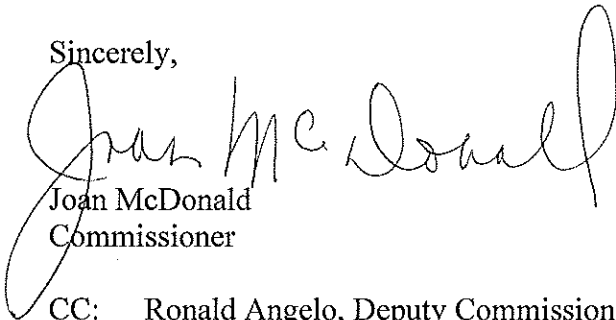
through "green and lean" initiatives. Water conservation should be added to these initiatives. DEP should encourage businesses to try and reduce overall operation costs by reducing water usage. Incorporation of water supply strategies such as reuse of potable water for non-potable uses should be publicized.

Although outside of the regulatory scope, DEP should work with the Department of Public Health (DPH), the Department of Public Utility Control (DPUC), and water utility companies to consider innovative actions such as telescopic water rates and/or seasonal water rates. These actions could help reduce residential use of water in a cost-effective manner while achieving DEP's goals of maintaining adequate flow in Connecticut's streams and rivers.

Especially in these tough economic times, DEP and DECD need to work together to strike that balance between conservation and development, and keep Connecticut competitive in the long-term.

We appreciate the significance of DEP's efforts in drafting these regulations. We hope that DEP will consider and incorporate our recommendations in the final version of the regulations. We look forward to working with you on this important issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joan McDonald". The signature is written in dark ink and is positioned above the printed name and title.

Joan McDonald
Commissioner

CC: Ronald Angelo, Deputy Commissioner, DECD
Joseph Oros, Chief of Staff, DECD
Peter Simmons, Director, Office of Responsible Development (ORD), DECD
Betsy Wingfield, Bureau Chief, Bureau of Water Protection and Land Reuse, DEP
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